

SENATE BILL 13

D3

(PRE-FILED)

0lr0335
CF HB 193

By: **Senator Raskin**

Requested: July 13, 2009

Introduced and read first time: January 13, 2010

Assigned to: Judicial Proceedings

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: February 9, 2010

CHAPTER _____

1 AN ACT concerning

2 **Civil Proceedings – Foreign Defamation Judgments – Enforceability and**
3 **Bases of Personal Jurisdiction**

4 FOR the purpose of authorizing a court in this State to exercise personal jurisdiction
5 for certain purposes and under certain circumstances over a certain person who
6 obtains a certain foreign defamation judgment; prohibiting recognition of
7 certain foreign judgments; establishing that ~~a~~ certain foreign defamation
8 ~~judgment need~~ judgments may not be recognized in this State unless a certain
9 court makes a certain ~~finding~~ determination; authorizing a court to award costs
10 and reasonable attorney's fees to a party opposing recognition or enforcement of
11 a certain foreign judgment; defining a certain term; and generally relating to
12 enforceability of certain foreign judgments and personal jurisdiction over
13 certain persons who obtain certain foreign judgments.

14 BY adding to

15 Article – Courts and Judicial Proceedings

16 Section 6–103.3

17 Annotated Code of Maryland

18 (2006 Replacement Volume and 2009 Supplement)

19 BY repealing and reenacting, with amendments,

20 Article – Courts and Judicial Proceedings

21 Section 10–704

22 Annotated Code of Maryland

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike-out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 (2006 Replacement Volume and 2009 Supplement)

2 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
3 MARYLAND, That the Laws of Maryland read as follows:

4 **Article – Courts and Judicial Proceedings**

5 **6–103.3.**

6 **(A) IN THIS SECTION, “DEFAMATION” INCLUDES INVASION OF PRIVACY**
7 **BY FALSE FACTS.**

8 **(B) A COURT MAY EXERCISE PERSONAL JURISDICTION, TO THE**
9 **FULLEST EXTENT PERMITTED BY THE UNITED STATES CONSTITUTION, OVER**
10 **ANY PERSON WHO OBTAINS A JUDGMENT IN A DEFAMATION PROCEEDING**
11 **OUTSIDE THE UNITED STATES AGAINST ANY PERSON WHO IS A RESIDENT OF**
12 **THIS STATE OR IS OTHERWISE SUBJECT TO JURISDICTION IN THIS STATE FOR**
13 **THE PURPOSE OF PROVIDING DECLARATORY RELIEF WITH RESPECT TO THAT**
14 **PERSON’S LIABILITY FOR THE JUDGMENT OR DETERMINING WHETHER THE**
15 **JUDGMENT SHOULD NOT BE RECOGNIZED UNDER § 10–704 OF THIS ARTICLE IF:**

16 **(1) THE PUBLICATION AT ISSUE WAS PUBLISHED IN THIS STATE;**
17 **AND**

18 **(2) THE THE RESIDENT OR PERSON SUBJECT TO JURISDICTION**
19 **IN THIS STATE:**

20 **(1) HAS ASSETS IN THIS STATE THAT MIGHT BE USED**
21 **TO SATISFY THE FOREIGN DEFAMATION JUDGMENT; OR**

22 **(2) MAY HAVE TO TAKE ACTIONS IN THIS STATE TO**
23 **COMPLY WITH THE FOREIGN DEFAMATION JUDGMENT.**

24 10–704.

25 **(A) IN THIS SECTION, “DEFAMATION” INCLUDES INVASION OF PRIVACY**
26 **BY FALSE FACTS.**

27 **(B)** A foreign judgment is not conclusive if:

28 (1) The judgment was rendered under a system which does not provide
29 impartial tribunals or procedures compatible with the requirements of due process of
30 law;

31 (2) The foreign court did not have personal jurisdiction over the
32 defendant;

1 (3) The foreign court did not have jurisdiction over the subject matter;
 2 or

3 (4) The judgment was obtained by fraud.

4 ~~(b)~~ **(C)** A foreign judgment ~~need~~ MAY not be recognized if:

5 (1) The defendant in the proceedings in the foreign court did not
 6 receive notice of the proceedings in sufficient time to enable him to defend;

7 (2) The cause of action on which the judgment is based is repugnant to
 8 the public policy of the State;

9 (3) The judgment conflicts with another final and conclusive
 10 judgment;

11 (4) The proceeding in the foreign court was contrary to an agreement
 12 between the parties under which the dispute was to be settled out of court; [or]

13 (5) In the case of jurisdiction based only on personal service, the
 14 foreign court was a seriously inconvenient forum for the trial of the action; ~~OR~~

15 **(6) THE CAUSE OF ACTION RESULTED IN A DEFAMATION**
 16 **JUDGMENT OBTAINED IN A JURISDICTION OUTSIDE THE UNITED STATES,**
 17 **UNLESS THE COURT BEFORE WHICH THE MATTER IS BROUGHT IN THIS STATE**
 18 **FIRST DETERMINES THAT THE DEFAMATION LAW APPLIED IN THE FOREIGN**
 19 **JURISDICTION PROVIDES FOR AT LEAST AS MUCH PROTECTION FOR FREEDOM**
 20 **OF SPEECH AND THE PRESS AS IS PROVIDED BY BOTH THE UNITED STATES**
 21 **CONSTITUTION AND THE MARYLAND CONSTITUTION; OR**

22 **(7) THE CAUSE OF ACTION RESULTED IN A DEFAMATION**
 23 **JUDGMENT ENTERED AGAINST THE PROVIDER OF AN INTERACTIVE COMPUTER**
 24 **SERVICE, AS DEFINED IN 47 U.S.C. § 230, UNLESS THE COURT BEFORE WHICH**
 25 **THE MATTER IS BROUGHT IN THIS STATE DETERMINES THAT THE JUDGMENT IS**
 26 **CONSISTENT WITH 47 U.S.C. § 230.**

27 **(D) IN ANY ACTION BROUGHT IN A COURT OF THIS STATE UNDER §**
 28 **6-103.3 OF THIS ARTICLE OR TO ENFORCE A FOREIGN JUDGMENT, THE COURT**
 29 **MAY AWARD THE PARTY OPPOSING RECOGNITION OR ENFORCEMENT OF THE**
 30 **FOREIGN JUDGMENT REASONABLE ATTORNEY’S FEES AND COSTS, IF THE PARTY**
 31 **PREVAILS IN THE ACTION ON A GROUND SPECIFIED IN THIS SECTION.**

32 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
 33 October 1, 2010.

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.